IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.42414-M of 2006
Date of Decision:- 07.03.2007

Manish Kumar & ors. ....Petitioner(s)
through
Mr.Jatinder Nagpal, Advocate

vs.

State of Punjab & anr. ....Respondent(s)
through
Mr.B.S.Baath, AAG, Punjab.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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1)Whether Reporters of the local papers may be allowed to see the judgment?
2)To be referred to the Reporters or not?
3)Whether the judgment should be reported in the Digest?

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SURYA KANT, J.

The prayer in this petition is for the quashing of F.I.R.No.60 dated 3.5.2005 registered under Section 406/498-A, 323 IPC at Police Station, Shimlapuri, Ludhiana.

Petitioners No.1 and 2 are brothers whereas petitioners No.3 and 4 are their parents. Both Petitioners No.1 and 2 are married to two real sisters, namely Mamta Rani and Kanchan Bala, daughters of respondent No.2-the complainant.

Since the above-stated compromise does not protect and safeguard the interest of minor daughter of Mamta Rani or minor son of Kanchan Bala-the two daughters of respondent No.2-the complainant, and the same is apparently based upon unconscionable terms and conditions, this Court, vide order dated February 12, 2007, declined to accept the same.

However, an opportunity was given to learned counsel for the petitioners to address the Court on merits.

Shri Baath, learned Assistant Advocate General, Punjab, on

instructions from Head Constable Ranjit Singh, however, states that after presentation of challan against the petitioners, charges have already been framed against them and the case is now fixed for prosecution evidence.

In the light of the above-stated stage of the trial and having regard to the fact that *prima facie* commission of offence has been made out against the petitioners and also keeping in view the fact that the alleged compromise deed has already been rejected, I am of the considered view that the petitioners' prayer for quashing of the FIR and/or the proceedings arising therefrom cannot be acceded to.

Consequently, this petition is disposed of with the following directions:-

(i) The petitioners shall be at liberty to take all the pleas before the learned trial Court at an appropriate stage;

(ii) Petitioner No.4, namely, Smt. Maya Devi wife of Banwari Lal, shall be at liberty to seek exemption from personal appearance and if any such application is moved by her, the learned trial Court is directed to grant her personal exemption, however, subject to further following conditions:-(i) she will be represented through counsel; (ii) will not delay/stall the trial proceedings; (iii) will not dispute her identity as an accused; and (iv) will have no objection if the -prosecution evidence is also recorded in her absence but in the presence of her counsel.

March 07, 2007 **(SURYA KANT)**
poonam **JUDGE**